

# City Of Santa Clara



## NOTICE OF FUNDING AVAILABILITY (NOFA)

## HOME FUNDS

New construction, acquisition, and/or  
rehabilitation of affordable housing

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**City of  
Santa Clara**  
The Center of What's Possible

## Introduction and Background

The City of Santa Clara's Housing & Community Services Division is pleased to announce a Notice of Funding Availability (NOFA) for HOME Investment Partnerships Program (HOME) funds. A total of up to **\$550,000** funds is available for the development of affordable housing.

Community Housing Development Organizations (CHDOs) can apply for up to \$550,000 (*see separate CHDO application for certification requirements*). Non-CHDO developers may only apply for up to \$400,000. Additional funding may become available through a reduction of programmed activities, or a larger than anticipated allocation of HOME funds.

This NOFA does not include the text of all applicable regulations that may be important to particular projects. Applicants should prepare their applications based on the current [HOME regulations](#).

Applications and NOFA material are available on the City's website at <http://santaclaraca.gov/government/departments/community-development/housing-community-services-division>

**All proposals must be delivered no later than 3:00 pm on December 7, 2018 at the Housing Community Development Division's offices located at 1500 Warburton Avenue, Santa Clara, CA 95050; (ATTN.: Eric Calleja).** The proposer shall submit one (1) original proposal, clearly marked "Original", along with a digital copy on a thumb drive. No emailed or faxed submittals will be allowed. Proposals received after the deadline will be returned.

Please submit questions by November 19, 2018 via email to Eric Calleja, Housing Development Officer at [ecalleja@santaclaraca.gov](mailto:ecalleja@santaclaraca.gov). A Q&A document will be emailed on November 20, 2018.

KEY NOFA PROCESS DATES	
NOFA application open	<b>November 5, 2018</b>
NOFA questions submission deadline	<b>November 19, 2018</b>
NOFA Q&A release	<b>November 20, 2018</b>
NOFA application close	<b>December 7, 2018 (no later than 3:00pm)</b>
Project presentations (if necessary)	<b>Week of December 10<sup>th</sup></b>
Award announcement	<b>December 20, 2018</b>
Appeal Period	<b>December 21, 2018 – January 8, 2019</b>

**SUBMISSION DEADLINE**  
**Friday, December 7, 2018 by 3:00 P.M.**  
**LATE APPLICATIONS WILL NOT BE ACCEPTED**

## Section 1: General Provisions

The City of Santa Clara is seeking projects that advance the need of affordable housing. Projects that assist special-needs populations identified in the 2015-2020 Consolidated Plan (ConPlan) are most desirable. Priority needs populations include:

Seniors	Persons w/HIV/AIDS and their families
Veterans	Persons w/developmental disabilities
Unaccompanied Youth	Persons w/physical disabilities
Extremely Low income families	Persons w/mental disabilities
Homeless families w/children	Persons w/substance abuse
Domestic Violence Survivors	Chronically homeless

### A. Funding Availability

HOME funds: \$150,000 in CHDO funding, and \$400,000 in non-CHDO funds are available. City of Santa Clara designated CHDOs, or those non-profits that can meet the CHDO definition and be certified by the City as a CHDO, may request up to \$550,000. Non-CHDO developers may seek up to \$400,000. The City encourages applicants to consult [HOME](#) regulations (CFR 24 Subtitle A Part 92).

### B. Project Location

Preference is given to projects within the City of Santa Clara city limits. Projects outside the city limits will only be considered if they are in a city that borders Santa Clara.

### C. Eligible Projects and Types

Funding is available for a variety of affordable housing developments. Mixed use developments are acceptable; however, the commercial costs of the development must be separated out in the pro forma from the costs of the residential portion as HOME cannot be used for non-housing related expenses.

Funds may be used for hard and soft costs associated with New Construction or Acquisition with Substantial Rehabilitation. At the City's discretion, funds may be used to reimburse acquisition and predevelopment costs previously paid by the applicant for the proposed project if incurred within 24 months of the agreement signing; however, the City prefers to disburse the majority of its funds at construction loan closing and/or during the construction period.

Funds awarded may be used for the following expenses:

1. New Affordable Rental Construction. Funds provided for the development of multi-family affordable rental project with or without acquisition as part of the project.
2. Rental Rehabilitation. Funds provided for rehabilitation of affordable housing. Projects involving rehabilitation must do sufficient rehabilitation to ensure long-term viability.

3. Acquisition. Acquisition of land is only allowed if construction or rehabilitation will begin within twelve (12) months of acquisition.

**D. Ineligible Activities.**

Funds may not be used for the following expenses or activities (list is not meant to be comprehensive) list:

1. Services;
2. Costs associated with commercial space;
3. Capitalization of reserve;
4. Refinancing permanent debt on existing developments without substantial rehabilitation.

**E. Environmental Review**

The National Environmental Policy Act (NEPA) was established in 1969 to give environmental values appropriate consideration in decision-making with regard to federally-funded projects. Projects requesting HOME funds require that the environmental review process and clearance be met prior to any agreement signing. The applicant shall not undertake or commit any funds to physical or choice- limiting actions, including further property acquisition, demolition, movement, rehabilitation, repair or construction prior to receiving a NEPA environmental clearance from the City.

An option agreement on a proposed site or property is allowed prior to completion of the environmental review if the option agreement is subject to a determination by the City on the desirability of the property for the project as a result of the completion of the environmental review in accordance with 24 CFR Part 58, and the cost of the option is a nominal portion of the purchase price.

In addition, projects must meet the requirements of the California Environmental Quality Act (CEQA) and obtain CEQA clearance by the local jurisdiction.

*Note:* To encourage early NEPA environmental compliance, HOME funds may be used to reimburse NEPA expenses incurred by a successful applicant prior to the effective date of the Standard Agreement at the sole discretion of the City. These expenses must be reasonably necessary for the proposed project and will be paid only after the Standard Agreement is fully executed. NEPA consultants may be chosen using the “small purchase” procurement method (i.e., by use of informal price quotations).

#### F. Funding Terms

It is the City's intention to invest in opportunities that enable the long term affordability of rental housing. The following table summarizes funding terms. The City reserves the right to negotiate terms on a case-by-case basis.

Terms	Predevelopment	Acquisition	Construction	Permanent
Loan Amount	Negotiable depending on the project and location.			
Security	Promissory note secured by deed of trust			
Interest Rate	0%	2%	2% simple interest	2% simple interest
Term	3 years	3 years	3 year conditional; converts to perm at project completion.	55 years
Recourse and Guarantees	Non-recourse	Non-recourse	Non-recourse	Non- recourse OR Full recourse
Repayment	Principal & interest deferred during predevelopment and construction; repaid at construction closing	Principal deferred during predevelopment / construction; repaid at construction closing	Interest deferred during construction; converts to permanent	Annual payments based on the availability of residual receipts

#### G. Affordability Covenant/Regulatory Agreement

For all proposed projects, the required term of the affordability covenants will be fifty-five (55) years from the completion of construction, or the maximum required by other funding sources, whichever is longer. The affordability covenant remains in effect for no less than the agreed-upon term regardless of the date upon which the City's loan is fully repaid.

#### H. Equity Share

For any loan funded by the City, if the borrower fails to perform within a specific period of time and the property is ultimately sold, the City will be entitled to a share in any appreciation that has occurred between the price paid at acquisition and the time of sale. The City's share in the appreciation will be equal to the proportion of the City's loan amount to the original purchase price of the property. The City will recapture the principal balance of the loan.

#### I. Lien Priority and Subordination

The City may, at its discretion, subordinate repayment and security positions under special circumstances. However, it is the City's intention not to subordinate its affordability covenants to the deeds of trust securing other lender's financing, with some exceptions (subject to staff approval and to the ratio of loan to total development cost). The affordability covenants control, among other things, the maximum income of tenants, and the maximum rents allowed.

#### J. Reservations

The City reserves the following rights:

1. Right to reject, waive or terminate the NOFA. The City reserves the right to amend through addenda, to accept or reject any or all proposals, in whole or in part, and to waive any informality in the NOFA/RFP process, or to terminate the NOFA process at any time, if deemed to be in the best interest of the City. The City reserves the right to fund projects that do not meet these guidelines if it is in the best interest of the City. For example, the City may have to fund another project in order to meet timeliness requirements imposed by HOME regulations.
2. Right to not award. The City reserves the right not to award, withhold or delay awarding funds to any project even if the project meets the threshold eligibility under the guidelines and the NOFA's requirements.
3. Right to retain proposals. The City reserves the right to retain all proposals submitted and not permit their withdrawal, unless authorized in writing by the City, for a period of ninety (90) days following the proposal submission.
4. Right to Reject Any Proposal. City reserves the right to reject any proposal, in whole or in part, that does not meet the requirements of this NOFA, including but not limited to, incomplete proposals and proposals offering conflicting or non-requested services.
5. Right to Negotiate. The City reserves the right to negotiate the terms of agreement.
6. No obligation to Compensate. The City shall have no obligation to compensate Applicant for any costs incurred in responding to this solicitation.
7. Proposals as Public Records. All proposals in response to this NOFA are public records and available for inspection and copying upon request only after such time as the proposal is recommended for award. Proposers wishing to keep discrete portions of their proposal confidential under applicable provisions of the California Public Records Act and/or related law should indicate with specificity such confidential information in their proposal. If, in the City's sole discretion, the City withholds the confidential information consistent with applicable law in response to a California Public Records Act Request, and, in the event the requester sues the City or threatens to sue the City seeking release of the confidential information, the City may require and the proposer agrees that the proposer requesting non-disclosure shall indemnify, defend, and hold harmless the City from and against all liability and costs relating to the lawsuit or threat of a lawsuit.
8. Equal Opportunity. The City is an Equal Opportunity Business Enterprises which promote competitive solicitations and does not discriminate on the basis of race, color, religion, creed, national origin, sex, disability, age or perceived or actual gender identity, sexual orientation. The City strongly encourages minority-owned and women-owned

businesses, socially and economically disadvantaged business enterprises, and small businesses to submit proposals, to participate as partners, or to participate in other business activity in response to this NOFA.

9. Equitable Distribution. The City reserves the right to take additional factors into consideration to ensure that federal, State, and local guidance on fair housing and related equity issues is followed.

**K. Misrepresentations or Material Changes to the Project**

Any changes regarding the borrowing entity or changes to the project's design, including but not limited to unit count, unit configuration, and/or financial structure of either the applicant or the project subsequent to the submittal of an application under this NOFA must receive approval from the City. In the event misrepresentations are made regarding either the borrowing entity or the project, City's commitment will be cancelled.

**L. Other Special Terms and Conditions**

1. Ground Lease. Applicants must include the opportunity for the City (and/or another public entity) to own the land as ground lessor under a long-term ground lease structure or some other land dedication/subdivision mechanism that will ensure long-term affordable housing as the primary use of the land.
2. Wages. Wage rates for workers performing work related to the development of the awarded projects shall be paid not less than the general prevailing rate of per diem wages, as defined in Section 1773 of the California Labor Code and Subchapter 3 of Chapter 8, Division 1, Title 8 of the California Code of Regulations (Section 16000 et seq.), and as established by the Director of the California Department of Industrial Relations ("DIR"); or Davis-Bacon wage rates, whichever is higher.
3. Insurance. During development, sponsors/developers must obtain comprehensive general liability and property (hazard) insurance coverages of at least \$2 million. The City will also require property damage or builder's risk insurance in the amount equal to 100% of the replacement costs of the structure, with a lender's loss payable endorsement in favor of the City. Construction contractors will be required to obtain liability and builders risk insurance in an amount equal to \$2 million. Automobile insurance, professional liability, workers compensation, and employer's liability coverage are also required.
4. Payment and Performance Bonds. General Contractors will be required to provide payment and performance bonds equal to 100% of the construction contract amount.



## Section 2: Application Submission and Review Process

Applications and NOFA material are available on the City's website at <http://santaclaraca.gov/government/departments/community-development/housing-community-services-division>

**All proposals must be delivered no later than 3:00 pm on December 7, 2018 at the Housing Community Development Division's offices located at 1500 Warburton Avenue, Santa Clara, CA 95050; (ATTN.: Eric Calleja).**

The proposer shall submit one (1) original proposal, clearly marked "Original", along with a digital copy on a thumb drive. No emailed or faxed submittals will be allowed. Proposals received after the deadline will be returned.

Responses to this NOFA should be organized as indicated below. Contact Eric Calleja via email at [ecalleja@santaclaraca.gov](mailto:ecalleja@santaclaraca.gov) for questions.

### A. Submittal Requirements

#### 1. NOFA Application

Complete the NOFA Application Form. Project-related information will be captured in the Application Form. **CHDO APPLICANTS, SEE "CHDO CERTIFICATION" BELOW.**

#### 2. CHDO Certification (if applicable)

Non-profits applying for CHDO funds must complete the separate CHDO application and become a City of Santa Clara certified CHDO prior to signing agreement for funding.

### B. Review Process

The award process under this NOFA is not solely dependent on score. The City will review development proposals in order to strategically manage their development pipeline.

#### 1. Threshold Review

*Evaluation Factors.* Section 3 outlines the evaluation factors and the scoring criteria the City will use to rank projects.

#### 2. Determination of Award

The City will consider the following factors in prioritizing and determining to fund a project: 1) number of affordable units; 2) target population; 3) cost reasonableness and total development cost; and 4) project readiness and ability to start construction in 12 months. Projects not selected for a formal award may be funded at a future time.

#### 3. City Council. Funding recommendations will be presented to the City Council. After Council approval, staff will draft loan documents for review by the Borrower.

## Section 3: Threshold Requirements

### A. Eligible Applicants

Eligible applicants include non-profit organizations, tax-credit limited partnerships or limited liability corporations, or mission aligned for-profit affordable housing developers with a successful development track record. **CHDO APPLICANTS SEE SEPARATE APPLICATION FOR CHDO CERTIFICATION REQUIREMENTS.**

The applicant must demonstrate technical capacity and experience to successfully develop, own, and manage affordable housing. Applicant may include in their proposal the contracting out the development piece to a reputable and experienced project development team.

- **Developer Criteria:** Developers (or project management team) that have successfully built and operated three to five restricted affordable rental housing developments, targeted to households with incomes at or below 80% AMI. Ownership by an affiliated limited partnership for tax credit purposes will qualify as ownership of the project.
- **Property Manager:** The applicant team must include a property management agent with experience managing affordable housing units. The property manager may be the applicant's own personnel, or a third-party contractor.

### B. Proposals

1. Site Control. Applicant must submit evidence that it possesses full site control, meaning that the Applicant has obtained an enforceable right to use a parcel of land prior to the submission of the proposal. This right may consist of fee title, ground lease, an exclusive negotiating agreement, DDA, purchase & sale agreement or an enforceable option.
2. Project Readiness. Applicant must demonstrate the capacity to secure all necessary funding for the development within 12 months of the selection date for Program funds. The City, under certain circumstances, may prioritize the order of projects moving forward for tax credit purposes. Under these circumstances the project readiness criteria may be waived.
3. Land Use and Zoning. Applicant must either 1) Submit evidence that the proposed project is permitted under the current General Plan Land Use designation or Zoning Ordinance at the time of the proposal submission and that all appeal periods have concluded; or 2) Submit information as to why the project is appropriate to obtain zoning approval and demonstrate that it will receive the necessary approvals within 12 months of loan closing.

4. Financial Feasibility of the Project. In order to be considered, the applicant must submit evidence of project financial feasibility for at least a 20-year period; realistic development and operating budget projections. If the project is a new construction or rehabilitation, the project also must demonstrate that it is feasible per guidelines for the 9% and 4% LIHTC program.

Operating budgets and 20-year pro-forma must:

- Show positive cash flow inclusive of all fees within 18 months of initial rent-up and first year Debt Service Coverage ratio shall not be less than 1.10:1. Ideally, the budget should show sufficient cash flow to make a modest payment to residual receipt loans.
- Include operating and replacement reserves (See Replacement and Operating Reserve Requirements below).
- Include Asset Monitoring Fee of \$50 per unit per year.
- 5% annual vacancy/collection loss for family, senior, and preservation projects and 10% annual vacancy/collection loss for SRO or special needs projects.
- 3.5% annual increase for expenses (other than property taxes and replacement reserves deposits) and 2.5% annual increase for income.
- The operating budget will be reviewed to ensure it is sufficient for proper maintenance and management but is not excessive compared to other similar properties.
- Asset management fees may not exceed \$7,500 annually. Tax credit projects are allowed an additional partnership management fee of up to \$19,500 annually. Partnership/asset management fees may increase by 3% per year, and are only allowed to the extent cash flow is available after payment of operating expenses, debt service, and deposits to reserves.
- As applicable, projects must include any deferred developer fee amount and include repayment schedule as part of the 20 year cash- flow projections

Projects with abnormally high costs – generally defined as being more than 15% above the median development cost per unit, per bedroom, or per square foot for similar projects – must provide justification for the costs. If City Staff does not approve the justification for higher costs or the revised budget, the application may be deemed incomplete or the City could require a reduction in the development budget

5. Tenant Selection Criteria. The applicant must submit a property management plan that has or will adopt tenant selection criteria guidelines that: pose minimal barriers to entry, use a ‘screening in’ approach versus a ‘screening out’ approach; have clear mitigation steps that recognize the needs of homeless persons, chronically homeless persons and individuals with disabling conditions.

6. Cash Flow/Incentive Management Fee

For nonprofits, if a project has no monitoring findings or other violations of City or other agreements, and reserves are fully funded, excess cash flow (after payment of operating costs, reserves, senior debt, deferred developer fee, and current partnership/asset management fee) will be split between the developer/sponsor and the City, with 50% of excess cash flow paid to the City as a residual receipts loan payment and 50% for the developer/sponsor as an Incentive Management Fee.

If the project is owned by a partnership, the partnership agreement should clearly indicate that the Incentive Management Fee will be paid to the developer/sponsor. This fee shall be used for projects and activities contributing directly to the developer's (or its affiliate's) affordable housing programs and community development activities.

If other lenders also require residual receipts payments, the developer/sponsor's proportion of the excess cash flow will be reduced to 25%. The lenders will receive distributions of the remaining 75% of the excess cash flow based on relative loan amounts. Staff should be included in any negotiations of residual receipts loan payments. Deferred partnership/asset management fee can only be paid from the developer sponsor's portion of the Incentive Management

7. High-quality Design and Amenities. The project must incorporate high-quality design and amenities appropriate for the target population being proposed. All projects must include common space for residents. The applicant must also demonstrate the extent to which the proposed development meets or advances City policies related to health, transportation and sustainability (i.e. Safe and Healthy Communities initiatives through Public Health and the Office of Sustainability).
8. Leverage. Must propose the maximum use of available non-local funds to achieve the highest reasonable financial leverage of capital resources. Non-local funds include, but are not limited to Affordable Housing Program (AHP), Affordable Housing and Sustainable Community (AHSC), and the Veterans Housing and Homelessness Prevention (VHHP) program.
9. Community Engagement Plan. Applicants are required to commit to the design and execution of a Community Engagement Plan in conjunction with the City that:
  - a. Engages and informs elected and other public officials;
  - b. Builds active community support;
  - c. Addresses community concerns and engages with people opposed the development;
  - d. Incorporates a communications strategy to inform and engage community members beyond proximate residents and businesses; and,
  - e. Incorporates the feedback of potential residents.

## Section 4: Evaluation Factors/Scoring Criteria

All Projects must meet the threshold criteria to be considered for funding. In addition, all Projects will be evaluated for cost efficiency and success in leveraging other funding sources to limit the amount of local subsidy needed. Applications will be compared to one another and to current development standards. Finally, the award process for purposes of these funds is not solely dependent on score. The City will consider the following factors in prioritizing and determining if and when to fund a project:

- 1) Target population and number of units;
- 2) Cost reasonableness and total development cost; and
- 3) Project readiness and ability to start construction in 12 months after commitment.

The City reserves the right to make awards in an amount less than requested by the Applicant, or reject applications altogether based upon cost and funding considerations, or submission of grossly incomplete or inaccurate projections.

Scoring and notification is expected to be completed by **December 20, 2018**. Emails will be sent to the authorized representative and contact person listed in the application. Applicants will have five business days to submit an appeal to the Housing & Community Services Division Housing Development Officer, Eric Calleja, at [ecalleja@santaclaraca.gov](mailto:ecalleja@santaclaraca.gov). Appeals must be solely based on the NOFA process; not whether the project is better than the project(s) chosen.

Category	Potential Points
1. Applicant Technical Capacity and Experience	40 points
a. Developer Capacity	10 points
b. Developer Financial Strength	5 points
c. Strength of Development Team	5 points
d. CHDO applicants	20 points
2. Proposal	30 points
a. Site Control	5 points
b. Project Readiness	20 points
c. Design & Local Amenities	5 points
3. Financial Characteristics	20 points
a. Leveraging	10 points
b. Cost Effectiveness	10 points
4. Community Engagement	10 points
<b>Total Points</b>	<b>100 points</b>

1. Applicant Technical Capacity and Experience (40 points)

a. Developer Capacity and Staffing. (10 points)

Points are awarded based on evidence that the lead staff, including the Project Manager and supervisory staff, have the necessary experience, and that the organization has adequate staffing capacity to undertake the project.

b. Developer Financial Strength (5 points)

Points are awarded based a review of the applicant's most recent financial audit.

c. Strength of Development Team (5 points)

Points are awarded based on evidence that the Development Team members (Developer principals, Property Manager, Attorney, Architect, Financial Consultant, etc.) have the necessary experience.

d. CHDO Developer (20 points)

Points are awarded based on submission of CHDO application.

2. Proposal (30 Points)

a. Site Control (5 Points)

All projects demonstrating site control will be awarded the maximum points.

b. Readiness (20 points).

Readiness will be gauged by the status of planning and land use entitlements and permits, the degree to which other funding commitments have been secured, completion of architectural drawings, the anticipated date for 9% tax credit financing applications or 4% tax credit/tax-exempt bond applications (if applicable), and the anticipated development schedule submitted as part of the application.

c. Design and Local Amenities (5 points)

A project may earn up to 5 points for the following attributes that is properly documented according to the facility's distance (measured by radius from the project) and certified to be applicable to the proposed project, for a maximum of 10 points.

- i. Transit: The proposed project is located within a public transit corridor, or the proposed project is using a van or dial-a-ride service. The project site must be within ¼ mile of a transit station, rail station, commuter rail station, bus station, or bus stop, with service provided at least every 30 minutes during rush periods.

- ii. Groceries: The proposed project is located within ½ mile of groceries and other essential shopping needs. Grocery is defined as a full-service store or supermarket that provides fresh food staples: fresh meats, poultry, dairy products, and produce. [Convenience stores and mini-marts/markets are not considered full-service stores or supermarkets.]
- iii. Health and social services:
  - 1) Chronically homeless units: The proposed project offers on-site services, or door-to-door transportation links; *additionally*, the site either is within one mile of a facility that operates to serve the target population, or the site is located within a ½ mile of public transit and relevant services are easily accessible by transit.
  - 2) Other special needs units: The proposed special needs units are served by onsite provision of services, or the units' services plan includes a commitment by a service provider to provide door-to-door transportation links that brings residents directly to service providers.
  - 3) Family projects: The proposed family project is located within ½ mile of a public elementary, junior high, or high school.
- iv. Recreation: The proposed project is located within ¼ mile of a park, library, recreational facility, or a community center accessible to the general public and appropriate for the targeted population.

Partial credit may be awarded at the sole discretion of the funders for locational attributes that do not meet the distance criteria listed below but that provide comparable functionality, accessibility and convenience to residents. For instance, a project site that is 0.27 miles from a transit station rather than .25 miles may be eligible for partial points.

3. Financial Characteristics (20 Points).

- a. Leveraging (10 Points). Degree to which outside funding will be pursued. Points will be awarded on a sliding scale based upon a project's ability to leverage funds from anticipated permanent funding sources other than those from this NOFA. It is only the permanent financing sources identified that will be used to determine the leveraging ratio. If private debt is underwritten on PBV rental income to the project, the private debt may be counted in this calculation. Partial points will be awarded for projects that have a leveraging ratio that falls in between the scoring levels set forth below:

<b>Percent of Sources from Other Funders</b>	<b>Points</b>
30% or less	0
40%	4
50%	6
60%	8
70% +	10

**Committed Funds:** Additionally, projects that have current soft funding commitments representing a minimum 5% of total development costs receive 3 points. Regardless, the maximum points to be awarded in this category is 10.

- b. **Cost Effectiveness (10 points).** Each Project's Financial Plan will be ranked according to the degree to which it is feasible and consistent with the requirements, limitations and opportunities associated with the proposed sources, proposed development costs that are comparable to other similar Projects, minimizes the City's permanent financing; proposes innovative sources of financing instruments, and uses innovative (i.e. non-standard, routine, or commonly used) but practical materials or methodologies designed to reduce development, construction and/or operating costs, either directly or indirectly, without reducing the overall quality of the completed Development.

	<b>Points</b>
Top ranked proposals related to cost effectiveness, preliminary financing plans, cost controls	10
2 <sup>nd</sup> ranked proposals	7
All other proposal	0-5

4. **Community Engagement (10 points)**

Each proposal will be reviewed on the merits of the design of a community engagement plan. Applicants that identify and elaborate on potential coordination needs with the surrounding community, partners and stakeholder groups including government entities, nonprofits, or affordable housing advocates will be awarded the maximum points.



## Section 5: Post-Award Requirements

If the City Council approves the Application, a conditional commitment letter (“Commitment”) will be issued to the Applicant specifying the terms and conditions upon which the City will award and fund the Project. If the Applicant does not satisfy the terms and conditions of the Commitment in the City’s sole and absolute discretion within the time frame specified therein, the funds will not be awarded.

- A. **Release of Funds.** The City will make capital funds available for disbursement on a draw-down or reimbursement basis, upon closing of the loan and/or commencement of construction. Disbursement of funds for payment of hard costs will be on a draw-down basis. The disbursement of funds for acquisition and predevelopment funding will be provided as the need for the funds arise.
- B. **Special conditions to closing.** In addition to the standard conditions, representations, and warranties, the City in its sole discretion, may require projects to meet the following special conditions prior to loan closing:
- Applicants may be required to present their project to the City Council.
  - Applicants may be required to address any architectural, design deficiencies identified during the application review process prior to release of loan funds.
- C. **Compliance with all Conditions Prior to Closing on Construction Finance.** All requirements and conditions set forth in the NOFA and the loan documents must be satisfied, as determined by the City, in its sole discretion, prior to disbursements of any loan funds. The applicant represents and warrants that all materials and information provided in connection with this NOFA are true and correct at all times, from date of submission to the City and throughout the award process, loan closing and term of the loan. By way of example, but not by limitation, some of the conditions, representations, or warranties that must be at all times true include:
- Applicant must be in good standing and have the authority and organizational power to enter into the documents, agreements, and certifications related to the NOFA and any resulting loan.
  - Applicant and its partners, principals, or affiliates must not be or include any persons or companies who are non-compliant with the requirements of any agreement with the City or be listed on HUD’s debarment lists.
  - Applicant and its partners, principals or affiliates cannot be in default or in violation of any of its obligations under the NOFA, or any loan documents, contracts, agreements, court orders or laws, and submitting for the NOFA and providing the information and entering into the agreements contemplated by the NOFA will not cause a default or violation.

- There shall be no change in the ownership, which is not promptly disclosed to and approved by the City.
- Applicant and its partners, principals, or affiliates shall not be subject to any binding, agreement, suit, order, or law which would be violated if applicant proceeds with the transactions contemplated by the NOFA, or the loan documents.
- There shall be no discovery of any preexisting event or circumstances and there shall be no material adverse change in the condition or suitability of the project site, the feasibility of the project, completion date, or the cost of the project, which is not promptly disclosed to and approved by the City. Applicant and its partners, principals or affiliates shall not be subject to any litigation, suit, arbitration or administrative proceeding which may adversely affect the ability of applicant to perform any of its obligations under and contemplated by the NOFA.

D. **Retention.** For Construction/Permanent loans, the City will hold 5% of the loan amount, up to a maximum of \$1,000,000, until the construction of the project is complete. Any withheld loan amount will only be released within 30 days after all of the following information has been provided to the City:

- Contractor's letter request for release
- Consent of contractor's surety
- Architect's Certificate of Final Payment
- Confirmation of Title Company Readiness to Issue Property Title
- Endorsements to the Original Title Policy
- Recorded or Correct filing of the Notice of Completion
- Certificate of Occupancy

E. **Cost Certification.** Developers must arrange for an independent cost certification on completion of a project. Approval of this certification is a requirement for conversion. At a minimum the Cost Certification should include the following:

- **Cost Reconciliation Schedule.** The borrower must show all sources in lien order and include loans or equity contributions that were spent and expenses that were incurred during the development period. The borrower must show the total proposed initial sources and uses and the actual sources and uses by line item. The analysis must explain any difference for line items that are over or below 10% of the original sources and uses budget.
- **Analysis of Reserve Accounts.** The Borrower must show the total proposed initial reserve amounts and the actual initial reserve deposit. The analysis must explain any difference between the proposed reserve amount and the deposited amount.

## Section 6: Compliance Monitoring

The City reserves the right to undertake periodic monitoring of the Project during construction and during the affordability period.

### **CONSTRUCTION PHASE**

Construction Monitoring. The City reserves the right to undertake periodic monitoring, including site visits of the Project during construction to ensure program compliance. Borrower shall be given adequate notice of any monitoring. Borrower shall submit quarterly construction progress reports from the close of acquisition financing, until the completion of the construction phase. The City shall supply the reporting form for such quarterly progress reports.

### **OPERATION PHASE**

Desk Review. The City will undertake periodic monitoring of projects to confirm ongoing program compliance. Such monitoring may consist of reviewing documents and records related to tenant income and rents, including those portions paid directly by tenants and by any rental assistance programs. The City may also review occupancy of Restricted Units and information relevant to the financial condition of the Project to ensure the Restricted Units are in compliance with the affordability requirements of the program, and to ensure the Project's long-term viability. The submitted documentation must be sufficiently detailed for the City to confirm whether the project is in compliance with the program requirements.

The annual compliance report submitted by Applicant to the City must include a tenant roster listing household size, income, and rent for each tenant in a restricted unit. The City shall review reports for compliance with the program requirements, shall require the developer to correct violations of any requirements, and may request additional documentation from the Borrower, as the situation dictates.

- Increases to Tenant Income. After initial qualification and upon recertification of household income, a household occupying a Restricted Unit may have its rent increased as a result of increases in household income, consistent with Project rules, rent restrictions and other requirements.
- Rent Limit Compliance for Rental Units. The Department will periodically monitor the development to ensure that the Restricted Units are in compliance with the affordability requirements and that procedures used to calculate the maximum tenant-paid rent for the Restricted Units are consistent with the Project's policies and requirements.

Field Monitoring. The City may conduct periodic site visits to projects. During such visits, City representatives may interview the resident manager, review a sample of the on-site tenant files, inspect a sample of units of various sizes and affordability, and tour common areas and grounds.

Residual Receipt Documentation. Following completion of the Project, on an annual basis, Owner shall submit to the City audited financial reports for the Project detailing income and expenses for the preceding year, including a determination of the Residual Receipts, if any, generated by the Project in that year. If Residual Receipts are generated, the financial report must include or be accompanied by an accounting of the distribution of such Residual Receipts among the Owner, City, and any other designated recipients.

CHDO Developers. Recertification of CHDO status shall be conducted on an annual basis during the period of affordability. Other monitoring requirements during the affordability period will be detailed in the agreement.

Monitoring Fees. Pursuant to the HOME Final Rule, Section 92.214(b)(1)(i), *Rental Compliance Monitoring Fees*, Participating Jurisdictions, such as the City of Santa Clara, may charge fees to cover the cost of ongoing monitoring and physical inspection of HOME projects during the state period of affordability. Monitoring Fees are detailed on the City's fee schedule found at <http://santaclaraca.gov/government/departments/community-development/housing-community-services-division>.